

OLC 75-2522

San - State

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Sept. 30, 1975

Mr. Monroe Leigh  
Legal Adviser  
Department of State  
Washington, D.C. 20520

Dear Mr. Leigh:

On February 7, 1974, Secretary of State Kissinger signed a document (Statement of Principles) with the de facto government of Panama. Points 3, 4 & 5 of this document stipulate that the Canal Zone is on Panamanian territory.

Concerning the legality of U.S. ownership of the Canal Zone territory, I wrote to Chief Justice Burger on April 29, 1975, inquiring as to when did the U.S. Supreme Court overrule its ruling in *Wilson v. Shaw*, 204 U.S. 24 (1907) which states that the territory of the Canal Zone is owned by the United States. On June 3, 1975, I was informed by the U.S. Supreme Court that the Court has not overruled its 1907 ruling pertaining to U.S. ownership of the territory of the Canal Zone.

On July 31, 1975, I wrote again to the U.S. Supreme Court to ask if Secretary Kissinger is in violation of the Court when he signed his Statement of Principles with the de facto government of Panama that contradicts the ruling of the Court which clearly defines U.S. ownership of the territory of the Canal Zone. The Court answered on August 4, 1975, stating they may not advise whether any individual is in violation of the law. The Court suggested that I contact the Office of the General Counsel of the State Department.

As you are the legal adviser to the State Department, I would appreciate your legal opinion, as suggested by the U.S. Supreme Court, whether or not Secretary Kissinger is in violation of the law concerning this matter. If he is not in violation of the law when he signed the document last year with the de facto government of Panama, could you inform me on what legal grounds can the Secretary of State overrule a ruling of the U.S. Supreme Court?

Very truly yours,

*Phillip Harman*

Phillip Harman

cc: Hon. Chief Justice Burger  
Hon. John J. Sparkman, Chairman  
Senate Foreign Relations Committee  
Hon. Thomas E. Morgan, Chairman  
House Committee on International Relations  
Hon. Philip W. Buchen, Counsel to the President

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